

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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OPTIMUM CONTROLS CORP., and  
THE COUNTY OF WESTCHESTER  
For the use and benefit of  
OPTIMUM CONTROLS CORP.,

JUDGE ROBINSON

08 CIV 7318.

Civ. Action No.

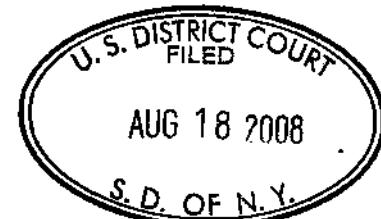
COMPLAINT

Plaintiffs,

- against -

RLJ ELECTRIC CORP., and  
HANOVER INSURANCE CO.,

Defendants.



X

Plaintiff, Optimum Controls Corp. ("Optimum"), by its attorneys, Mazur, Carp & Rubin, P.C., as for its Complaint, alleges as follows:

THE PARTIES

1. Plaintiff, is a corporation duly organized and existing under and by virtue of the laws of the State of Pennsylvania, and maintains its principal place of business at 1301 Rosemont Blvd., Reading, Pennsylvania 19604.

2. Upon information and belief, RLJ Electric Corp. ("RLJ") is a corporation duly organized and existing under and by virtue of the laws of the State of New York, and maintains its principal place of business at 860 Washington St., Peekskill, New York 10566.

3. Upon information and belief, Hanover Insurance Co. ("Hanover") is a corporation duly organized and existing under and by virtue of the laws of the State of New Hampshire and maintains its principal place of business at 100 North Parkway, Worcester Massachusetts 01615.

4. Upon information and belief, Hanover is duly authorized to do business as a surety in the State of New York.

JURISDICTION

5. The Court has subject matter jurisdiction over the instant matter and the defendants pursuant to 28 U.S.C. §1332(a)(1), based on diversity of citizenship.

6. Plaintiff is a Pennsylvania corporation, defendant RLJ is New York corporation and defendant Hanover is a New Hampshire corporation. The amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

7. Venue is proper pursuant to 28 U.S.C. § 1391(a)(2) as a substantial part of the events or omissions giving rise to the claims occurred in this District.

BACKGROUND FACTS

8. Upon information and belief, on or about September 14, 2006, RLJ entered into a contract with the County of Westchester, designated as Contract No. 05-540E, Pump Station Rehabilitation Program, Glen Island Administration Pumping Station, Glen Island Casino Pumping Station, Kemey's Cove Pumping Station Weaver

12. Despite written demands on or about August 28, 2008 and September 4, 2007, from Optimum to Creed for payment, Creed has failed to make any payment towards any of the invoices.

**AS FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS**  
**RLJ AND HANOVER PURSUANT TO**  
**THE PAYMENT AND PERFORMANCE BONDS**

13. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-12 as if fully set forth herein.

14. Upon information and belief, Hanover duly executed and delivered a Bond dated October 5, 2006, in connection with the Contract in the total penal sum of \$1,284,000.

15. Under the terms of the Bond, all persons that have rendered services, supplies or materials in connection with the Contract shall have a direct right of action against RLJ on the Bonds.

16. Optimum has provided equipment in connection with the Contract and has submitted invoices for said equipment, totaling \$171,840.60. Optimum has not received any payment towards these invoices.

17. By reason of the foregoing, Plaintiff has been damaged in an amount to be determined at trial but in no event less than \$171,840.60, together with interest, costs and disbursements.

WHEREFORE, Plaintiff demands judgment against defendants RLJ and Hanover for the sum of \$171,840.60 with appropriate interest thereon together with such other and further relief as the Court may deem just and proper, and with the costs and disbursements of this action.

Dated:        New York, New York  
                  August 18, 2008

MAZUR, CARP & RUBIN, P.C.  
By   
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TO:

RLJ Electric Corp.  
860 Washington Street  
Peekskill, New York 10566

Hanover Insurance Company  
100 North Parkway  
Worchester, Massachusetts 01615